

REMARKS

The Office Action mailed October 23, 2006 has been received and reviewed. Claims 1-21 are pending in the application. Claims 1-15 currently stand rejected. Claims 16-21 are currently subject to a restriction/election requirement.

By this Amendment, one minor amendment has been made to the specification to correct an informality. This amendment is supported in the specification and adds no new matter. For the reasons set forth below, claims 1-15 are believed to be in condition for immediate allowance. Favorable reconsideration of the application in view of the following remarks, is therefore respectfully requested.

Objection to the Specification

In the Office Action, the specification is objected to because the paragraph beginning on line 1 of page 3 contains a grammatical error. According, Applicant has amended the specification by providing a replacement paragraph in accordance with 37 C.F.R. § 1.121.

Rejection of Claims 1 and 10 under 35 U.S.C. § 112

Claims 1-15 stand rejected under 35 U.S.C. § 112 ("Section 112"), second paragraph, for being "indefinite for failing to particularly point out and distinctly claim the subject matter which application regards as the invention." In particular, the Examiner states that the preamble does not correspond to the body of the claims because the claims to not "include any recitation of said *enforcing* functionality."

Applicant respectfully disagrees with the Examiner on this issue. One definition of the term "enforce" provided by Webster's dictionary is "to carry out effectively." Applicant submits

that the steps of "discovering the existence of the embedded defect" and "disclosing the existence" of the defect is often sufficient to urge a supplier to correct a defect, and thus "carry out effectively" the correction of the defect. Thus, Applicant submits that the term "enforce" does correspond to the body of claims 1 and 10. Accordingly, Applicant requests that the rejection of claims 1-15 under Section 112 be withdrawn.

Rejection of Claims 1 and 4-8 Under 35 U.S.C. §102(e)

Claims 1 and 4-8 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,321,348 to Kobata ("Kobata").

For a prior art reference to anticipate, every element of the claimed invention must be identically disclosed in a single prior art reference; and those elements must be arranged or connected together in a single reference in the same way as specified in the patent claim. MPEP § 2131.

Applicant submits that Kobata fails to teach each and every element recited in claims 1 and claims 4-8 which depend from and incorporate all of the limitations of claim 1. For example, referring to claim 1, Kobata fails to disclose a "providing . . . a product having an *embedded defect* causing [a] product to *artificially reject operation with a class of associated products*" (emphasis added). As explained in Applicant's specification, the term "artificial" refers to instances where a supplier "forces obsolescence on selected computer hardware components, thereby forcing a consumer to needlessly upgrade to newer components." (See page 6, last paragraph). This concept is taught again on page 8, second paragraph, where it states:

Unfortunately, some requirements may be *artificially* imposed. That is, a program

may actually run at a satisfactory performance level, as deemed by a user of a computer system, but the user may be prevented from installing and running the software because the manufacturer has *artificially* locked out selected computer systems. In a sense, the manufacturer of the software has forced obsolescence of the computer system, as in the case of Microsoft and the Windows operating system. This may require a user to unnecessarily upgrade or purchase a new computer system, satisfying the requirements, incurring unneeded frustration, effort, collateral programming, and expense to the user.

The embedded defects that cause a product to *artificially* reject operation with a class of associated product may include, for example, "locks, triggers, flags, or the like that may deny proper operation of [a] product with complementary products." (See page 25, paragraph 2). Kobata, on the other hand, fails to disclose such embedded defects. Thus, Kobata fails to disclose the limitations recited in claim 1 for at least this reason.

Applicant also submits that Kobata fails to teach the limitations of claim 10 for at least the same reasons cited with respect to claim 1. Because claims 4-8 depend from independent claim 1, Applicant submits that these claims are allowable over Kobata at least due to their direct or indirect dependency therefrom.

Rejection of Claims 10-15 Under 35 U.S.C. §103(a)

Claims 2, 3, and 9 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kobata. Because claims 2, 3, and 9 depend from independent claim 1, Applicant submits that these claims are allowable over Kobata at least due to their direct or indirect dependency therefrom.

Rejection of Claims 10-15 Under 35 U.S.C. §103(a)

Claims 10-15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kobata

in view of a document entitled "Liability for Product Incompatibility" ("Liability Document") and further in view of U.S. Patent No. 7,085, 936 to Moran ("Moran").

Applicant submits that neither the Liability Document nor Moran remedy the deficiencies of Kobata. For example, neither Moran nor the Liability Document "providing . . . a product having an embedded defect causing [a] product to artificially reject operation with a class of associated products" as required by claim 10. Although the Liability Document does concern "product incompatibility," it does not teach embedded defects which are imposed artificially. Thus, the cited reference do not render obvious claim 10 because they do not teach all of its limitations.

Because claims 11-15 depend from independent claim 10, Applicant submits that these claims are allowable over the cited references at least due to their direct or indirect dependency therefrom.


JAN 03 2007

CONCLUSION

In the event that the examiner finds any remaining impediment to the prompt allowance of any of these claims, which could be clarified in a telephone conference, the examiner is respectfully urged to initiate the same with the undersigned.

DATED this 3rd day of January, 2007.

Respectfully submitted,


A. John Pate
Reg. No. 36,234
Attorney for Applicant

Date: January 3, 2007

PATE PIERCE & BAIRD
550 Parkside Tower
215 South State Street
Salt Lake City, Utah 84111
Telephone: (801) 530-0330
Facsimile: (801) 530-5955

2456-2-6-4 PAT-FTL-ROA1.wpd